

AMENDED IN ASSEMBLY APRIL 27, 2000

AMENDED IN ASSEMBLY APRIL 25, 2000

AMENDED IN ASSEMBLY APRIL 5, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2279

Introduced by Assembly Member Dutra

February 24, 2000

An act to amend Sections 9741, 9742, 9744, and 9744.5 of, and to add Section 9740.5 to, the Business and Professions Code, and to add Section 7054.61 to the Health and Safety Code, relating to cremated human remains disposal.

LEGISLATIVE COUNSEL'S DIGEST

AB 2279, as amended, Dutra. Cemeteries: cremated remains: licensing.

Existing law provides for the Cemetery Program, administered by the Department of Consumer Affairs, under which funeral professions are licensed and regulated.

This bill would require the department to provide specified funeral-related entities with a notice containing information on cremated remains disposal. This bill would require specified funeral-related entities that recommend, refer, or arrange the services of a registered cremated remains disposer to provide the notice to the individual controlling the disposition of the remains, as defined. This bill would provide that any funeral establishment, crematory, or cemetery that

offers cremated remains disposal services is not required to provide the notice.

Existing law requires a cremated remains disposer to provide specified information when registering with the program. The information includes business address and service area.

This bill would require the cremated remains disposer to include in that information the Airman's Medical Certificate and copy of the current pilot's license.

Existing law requires aircraft and boats used for scattering cremated remains to be registered or certified with the appropriate government agency.

This bill would require the cremated remains disposer to provide the department with an annual aircraft inspection certificate. This bill would also require the department to post specified information about cremated remains disposers on its website and toll-free telephone number.

The bill would specify that if this bill and AB 2100 are both enacted and become operative, the above posting requirements on the department would not become operative and, instead, the department would be required to make available to the public information about permissible scattering and licensed cremated remains disposers including, but not limited to, the current status of a pilot's license and inspections for aircraft or boats used for scattering.

Existing law requires each cremated remains disposer to store cremated remains in a place free from exposure to the elements and to maintain them responsibly until disposal.

This bill would also require that the remains be kept in a durable container.

Existing law requires each cremated remains disposer to provide a copy of the permit for disposition of human remains to the person authorizing the scattering of the remains within 60 days of the scattering.

This bill would require the cremated remains disposer to provide a copy of the permit and a copy of the current pilot's license to the funeral director and the person authorizing the scattering within 10 business days of the scattering.

This bill would also require the cremated remains disposer to provide the person authorizing the scattering, and the



funeral establishment, crematory, or cemetery, with a signed declaration containing specified information and stating under penalty of perjury that the scattering was performed. By expanding the definition of the crime of perjury, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9740.5 is added to the Business
2 and Professions Code, to read:

3 9740.5. (a) The department shall provide any funeral
4 establishment, crematory, cemetery, or other entity that
5 recommends, refers, or arranges the services of a
6 registered cremated remains disposer pursuant to
7 Section 9740, a notice containing, but not limited to, all of
8 the following information:

9 (1) Information about permissible scattering and
10 current registration status of registered cremated
11 remains disposers can be obtained by contacting the
12 Department of Consumer Affairs' toll-free telephone
13 number or Internet website.

14 (2) A registered cremated remains disposer is not
15 required to scatter cremated human remains in this state.

16 (3) Registered cremated remains disposer services
17 cannot be guaranteed.

18 (4) Registered cremated remains disposers are not
19 typically representatives or agents of funeral
20 establishments, crematories, or cemeteries and are solely
21 responsible for compliance with all applicable laws and
22 regulations and for the disposition of the cremated
23 human remains released to their custody.

(b) Any funeral establishment, crematory, cemetery, or other entity that recommends, refers, or arranges the services of a registered cremated remains disposer pursuant to Section 9740, shall provide the person with the right to control the disposition of the remains pursuant to Section 7100 of the Health and Safety Code, with the notice in subdivision (a).

(c) Nothing in this section shall prohibit the department from including this information in the declaration required pursuant to Section 7685.2.

(d) This section shall not apply to any funeral establishment, crematory, or cemetery that provides cremated remains disposal services.

SEC. 2. Section 9741 of the Business and Professions Code is amended to read:

9741. (a) (1) Registration shall be on the form prescribed by the program and shall include, but not be limited to, the full name of the registrant, business and residence addresses, description and identification of aircraft or boats which may be used in dispensing cremated human remains, and the area to be served. Each registration application shall be accompanied by the cremated remains disposer fee.

(2) Each registrant who dispenses human remains by air shall include copies of the registrant's current Airman's Medical Certificate as required by Section 67 of Title 14 of the Code of Federal Regulations and the registrant's current pilot's license.

(b) Every registered cremated remains disposer who dispenses human remains by air shall post a copy of his or her current pilot's license, and the address of the cremated remains storage area at his or her place of business. Every registered cremated remains disposer who dispenses human remains by boat shall post a copy of his or her current boating license and the address of the cremated remains storage area at his or her place of business.

SEC. 3. Section 9742 of the Business and Professions Code is amended to read:

1 9742. (a) All aircraft used for the scattering of
2 cremated human remains shall be validly certified by the
3 Federal Aviation Administration. All boats or vessels used
4 for the scattering of cremated human remains shall be
5 registered with the Department of Motor Vehicles or
6 documented by a federal agency, as appropriate. The
7 certification or registration shall be available for
8 inspection by the program.

9 (b) Every cremated remains disposer shall provide
10 the department with a copy of the proof of the annual
11 inspection required by Section 43 of Title 14 of the Code
12 of Federal Regulations for all aircraft used in scattering
13 cremated human remains.

14 (c) The department shall post on its Internet website
15 and provide on its toll-free telephone number,
16 information about permissible scattering and licensed
17 cremated remains disposers including, but not limited to,
18 the current status of a pilot's or captain's license and
19 inspections for aircraft or boats used for scattering.

20 *SEC. 3.5. Section 9742 of the Business and Professions*
21 *Code is amended to read:*

22 9742. (a) All aircraft used for the scattering of
23 cremated human remains shall be validly certified by the
24 Federal Aviation Administration. All boats or vessels used
25 for the scattering of cremated human remains shall be
26 registered with the Department of Motor Vehicles or
27 documented by a federal agency, as appropriate. The
28 certification or registration shall be available for
29 inspection by the program.

30 (b) *Every cremated remains disposer shall provide*
31 *the department with a copy of the proof of the annual*
32 *inspection required by Section 43 of Title 14 of the Code*
33 *of Federal Regulations for all aircraft used in scattering*
34 *cremated human remains.*

35 (c) *The department shall make available to the public*
36 *information about permissible scattering and licensed*
37 *cremated remains disposers including, but not limited to,*
38 *the current status of a pilot's license and inspections for*
39 *aircraft or boats used for scattering.*

1 SEC. 4. Section 9744 of the Business and Professions
2 Code is amended to read:

3 9744. Each cremated remains disposer shall provide
4 the person authorizing the scattering of the cremated
5 human remains and the funeral director, or the individual
6 acting as the funeral director, with both of the following:

7 (a) A copy of the completed permit for disposition of
8 human remains pursuant to Chapter 8 (commencing
9 with Section 103050) of Part 1 of Division 102 of the
10 Health and Safety Code within 10 business days of the
11 date of the scattering.

12 (b) A copy of the cremated remains disposer's current
13 pilot's license.

14 SEC. 5. Section 9744.5 of the Business and Professions
15 Code is amended to read:

16 9744.5. (a) Every cremated remains disposer shall do
17 all of the following:

18 (1) Dispose of cremated remains within 60 days of the
19 receipt of those remains, unless a written signed reason
20 for a delay is presented to the person with the right to
21 control the disposition of the remains under Section 7100
22 of the Health and Safety Code.

23 (2) (A) Provide the Cemetery Program with the
24 address and phone number of any storage facility being
25 used by the registrant to store cremated remains.

26 (B) Cremated remains shall be kept in a durable
27 container and stored in a place free from exposure to the
28 elements, and shall be responsibly maintained until
29 disposal.

30 (C) The Cemetery Program and its representatives
31 shall conduct, on an annual basis, random inspections of
32 the operations of 5 to 10 percent of the registered
33 cremated remains disposers, and is authorized to inspect
34 any place used by a cremated remains disposer for the
35 storage of cremated remains without notice to the
36 cremated remains disposer.

37 (3) Provide the person authorizing the scattering, and
38 the funeral establishment, crematory, or cemetery, with
39 a signed declaration stating under the penalty of perjury

1 that the scattering was performed at the stated date, time,
2 and place.

3 (b) A violation of the requirements of this section is
4 grounds for disciplinary action.

5 SEC. 6. Section 7054.61 is added to the Health and
6 Safety Code, to read:

7 7054.61. When cremated remains are removed from
8 the place of cremation or interment for scattering by a
9 cremated remains disposer registered pursuant to Article
10 6.5 (commencing with Section 9740) of Chapter 19 of
11 Division 3 of the Business and Professions Code, the
12 cremated remains shall be in a durable container.

13 SEC. 7. *Section 3.5 incorporates amendments to*
14 *Section 9742 of the Business and Professions Code,*
15 *proposed by this bill, to be compatible with policies*
16 *regarding electronic governance as proposed by AB 2100.*
17 *Section 3.5 shall only become operative if both this bill*
18 *and AB 2100 are enacted and become effective on or*
19 *before January 1, 2001, in which case Section 3 of this bill*
20 *shall not become operative.*

21 SEC. 8. No reimbursement is required by this act
22 pursuant to Section 6 of Article XIII B of the California
23 Constitution because the only costs that may be incurred
24 by a local agency or school district will be incurred
25 because this act creates a new crime or infraction,
26 eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section
28 17556 of the Government Code, or changes the definition
29 of a crime within the meaning of Section 6 of Article
30 XIII B of the California Constitution.